

**ASSEMBLY BILL**

**No. 1011**

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**Introduced by Assembly Member Salas**

February 22, 2013

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An act to amend Section 1540 of the Code of Civil Procedure and Section 12419.8 of the Government Code, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1011, as introduced, Salas. Unclaimed property: interest payment.

The Unclaimed Property Law, which is administered by the Controller, governs the disposition of unclaimed property, including the escheat of certain property to the state. Existing law specifies the procedures for transferring the property from the holder of the property to the state and for administering the property. Existing law sets forth procedures whereby a person may file a claim to the property or to the net proceeds from its sale. Existing law prohibits the payment of interest on a claim paid by the Controller under the Unclaimed Property Law.

This bill would require that the Controller add interest, at specified rates, to the amount of any claim paid by the Controller to an owner under the Unclaimed Property Law. The bill would also impose the requirement to pay interest on a former holder of property who compensates an owner of property that has escheated and been remitted to the Controller. The bill would allow a former holder who makes such a payment to seek reimbursement in that amount from the Controller, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1540 of the Code of Civil Procedure is amended to read:

1540. (a) Any person, excluding another state, who claims an interest in property paid or delivered to the Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the Controller and shall be verified by the claimant.

(b) The Controller shall consider each claim within 180 days after it is filed and may hold a hearing and receive evidence. The Controller shall give written notice to the claimant if he or she denies the claim in whole or in part. The notice may be given by mailing it to the address, if any, stated in the claim as the address to which notices are to be sent. If no address is stated in the claim, the notice may be mailed to the address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

~~(c) No interest shall be payable on any claim paid under this chapter.~~

(c) (1) *The Controller shall add interest at the rate of 5 percent per year or the bond equivalent rate of 13-week United States Treasury bills, whichever is lower, to the amount of any claim paid the owner under this section for the period the property was on deposit in the Unclaimed Property Fund. No interest shall be payable for any period prior to January 1, 2014. Any interest required to be paid by the state pursuant to this section shall be computed as simple interest, not as compound interest.*

(2) *For purposes of this section, the bond equivalent rate of 13-week United States Treasury bills shall be defined in accordance with the following criteria:*

(A) *The bond equivalent rate of 13-week United States Treasury bills established at the first auction held during the month of January shall apply for the following July 1 to December 31, inclusive.*

(B) *The bond equivalent rate of 13-week United States Treasury bills established at the first auction held during the month of July shall apply for the following January 1 to June 30, inclusive.*

(d) A former holder of property, who compensates the owner of property that has escheated and been remitted to the state, shall also pay interest as provided in subdivision (c) in addition to the value of the property. Upon payment of the principal and interest pursuant to this subdivision, the owner shall be deemed to have forfeited his or her interest in the escheated property and the former holder may seek and receive reimbursement from the Controller in the amount that the former holder paid to the owner of the escheated property. The request for reimbursement must be properly submitted in the form prescribed by the Controller.

~~(d)~~  
(e) For the purposes of this section, “owner” means the person who had legal right to the property prior to its escheat, his or her heirs, his or her legal representative, or a public administrator acting pursuant to the authority granted in Sections 7660 and 7661 of the Probate Code.

~~(e)~~  
(f) Following a public hearing, the Controller shall adopt guidelines and forms that shall provide specific instructions to assist owners in filing claims pursuant to this article.

SEC. 2. Section 12419.8 of the Government Code is amended to read:

12419.8. (a) The Controller may, in his or her discretion, offset any amount due a city or county from a person or entity pursuant to paragraph (1), (2), or (4) of subdivision (c), and shall, at the request of the city or county, offset any amount due a city or county from a person or entity pursuant to paragraph (3) of subdivision (c), against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law, a claim for refund from the State Board of Equalization under the Sales and Use Tax Law, from winnings in the California State Lottery, or a claim filed by the owner, as described in subdivision ~~(d)~~ (e) of Section 1540 of the Code of Civil Procedure, for payment of money from unclaimed property held by the state. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

1 (b) The Controller shall deduct and retain from any amount  
2 offset in favor of a city or county an amount sufficient to reimburse  
3 the Controller, the Franchise Tax Board, the State Board of  
4 Equalization, or the California State Lottery for their administrative  
5 costs of processing the offset payment.

6 (c) This section shall apply only to any of the following  
7 situations:

8 (1) Where the amount has been reduced to a judgment.

9 (2) Where the amount is contained in an order of a court.

10 (3) Where the amount is from a bench warrant for payment of  
11 any fine, penalty, or assessment.

12 (4) Where the amount is delinquent unsecured property taxes  
13 on which a certificate lien has been filed for record in the office  
14 of the county recorder pursuant to Section 2191.3 of the Revenue  
15 and Taxation Code.

16 (d) For purposes of paragraph (4) of subdivision (c):

17 (1) Upon the tax collector's request for taxpayer identification  
18 numbers required by the Controller's procedures, the tax collector  
19 shall immediately notify the appropriate assessee, by registered or  
20 certified mail, that the request has been made for the purpose of  
21 intercepting refunds from the state government due the taxpayer,  
22 in order to offset the delinquent property tax obligation. The letter  
23 shall state that if the assessee does not pay the outstanding tax  
24 amount to the tax collector within 20 days, the required taxpayer  
25 identification number will be so provided.

26 (2) The tax collector shall not be named in any action that may  
27 be brought as a result of compliance with this subdivision.